



Homeland Security

Privacy Office, Mail Stop 0655

March 21, 2012

SENT VIA EMAIL TO: JASON@TRUTHOUT.ORG

Jason Leopold
Deputy Managing Editor/Investigative Reporter
1669 Benedict Canyon Drive
Beverly Hills, CA 90210

Re: DHS/OS/PRIV 12-0048

Dear Ms. Leopold:

This is our first interim response to your Freedom of Information Act (FOIA) request to the Department of Homeland Security (DHS), received in our office on October 31, 2011. You are seeking all Department of Homeland Security emails, memos, letters, audio/video, transcripts, reports, and threat assessments, related to the protest movement known as “Occupy Wall Street” from August 31, 2011 to October 31, 2011.

In your November 18, 2011 email to this office, you amended your request to expand your date range to include November 1, 2011 to November 18, 2011. In phone conversation with our office on November 21, 2011, you agreed to narrow the scope of your request to include responsive records from senior DHS officials only.

A search of for documents responsive to your request produced a total of 408 pages. As a result of discussion between agency personnel and a member of my staff, as a matter of administrative discretion, I am releasing certain records that may contain deliberative information. To date, we have completed our review of 408 pages for documents responsive to your request. I have determined that 58 pages of the records are releasable in their entirety, 340 pages are partially releasable, and 10 pages are withheld in full pursuant to Title 5 U.S.C. § 552 (b)(5), (b)(6), (b)(7)(C), and (b)(7)(E) FOIA Exemption 5, 6, 7(C), and 7(E).

FOIA Exemption 5 protects from disclosure those inter- or intra-agency documents that are normally privileged in the civil discovery context. The three most frequently invoked privileges are the deliberative process privilege, the attorney work-product privilege, and the attorney-client privilege. After carefully reviewing the responsive documents, I determined that portions of the responsive documents qualify for protection under the Deliberative Process Privilege. The deliberative process privilege protects the integrity of the deliberative or decision-making processes within the agency by exempting from mandatory disclosure opinions, conclusions, and recommendations included within inter-agency or intra-agency memoranda or letters. The release of this internal information would discourage the expression of candid opinions and inhibit the free and frank exchange of information among agency personnel.

FOIA Exemption 6 exempts from disclosure personnel or medical files and similar files the release of which would cause a clearly unwarranted invasion of personal privacy. This requires a balancing of the public's right to disclosure against the individual's right privacy. The privacy interests of the individuals in the records you have requested outweigh any minimal public interest in disclosure of the information. Any private interest you may have in that information does not factor into the aforementioned balancing test.

Exemption 7(C) protects records or information compiled for law enforcement purposes that could reasonably be expected to constitute an unwarranted invasion of personal privacy. This exemption takes particular note of the strong interests of individuals, whether they are suspects, witnesses, or investigators, in not being unwarrantably associated with alleged criminal activity. That interest extends to persons who are not only the subjects of the investigation, but those who may have their privacy invaded by having their identities and information about them revealed in connection with an investigation. Based upon the traditional recognition of strong privacy interest in law enforcement records, categorical withholding of information that identifies third parties in law enforcement records is ordinarily appropriate. As such, I have determined that the privacy interest in the identities of individuals in the records you have requested clearly outweigh any minimal public interest in disclosure of the information. Please note that any private interest you may have in that information does not factor into this determination.

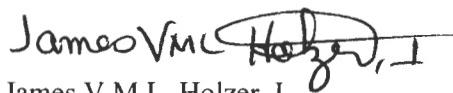
Exemption 7(E) protects records compiled for law enforcement purposes, the release of which would disclose techniques and/or procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law.

You have a right to appeal the above withholding determination; however, we do request that you hold any appeals in abeyance pending the issuance of our final response. Your agreement to do so will have no affect on the adjudication of your appeal. Should you wish to do so, you must send your appeal and a copy of this letter, within 60 days of the date of this letter, to: Associate General Counsel (General Law), U.S. Department of Homeland Security, Washington, D.C. 20528, following the procedures outlined in the DHS regulations at 6 C.F.R. § 5.9. Your envelope and letter should be marked "FOIA Appeal". Copies of the FOIA and DHS regulations are available at www.dhs.gov/foia.

Provisions of the FOIA allow us to recover part of the cost of complying with your request. In this instance, because you have been granted a blanket waiver of fees, there is no charge associated with this response.

We appreciate your patience as we continue to process your request. If you need to contact our office again about this matter, please refer to **DHS/OS/PRIV 12-0048**. This office can be reached at 703-235-0790.

Sincerely,


James V.M.L. Holzer, I
Director
Disclosure and FOIA Operations

Enclosure: As stated, 398 pages